

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

APPEAL NO.971 OF 2001

IN

SUIT NO.291 OF 1976

...

Hind Saurashtra Service Industries

Co-operative Society Ltd. ...Appellants

v/s.

Raj Krishanlal Marwah and Anr. ...Respondents

...

Mr.D.D.Madon, Sr.Counsel with Mr.S.K.Jain i/b

L.D.Shah & Co. for the Appellants.

Mr.A.K.Abhyankar, Sr.Counsel with Mr.Sanjay Kothari

and Mr.A.Joshi i/b Mulla & Mulla & C.B.C. for the
Respondents.

...

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 30TH AUGUST, 2007

P.C.:

The learned Counsel appearing for both sides are agreed that the judgment impugned in the appeal is liable to be set aside. Therefore, by consent of parties, the judgment impugned in the Appeal is set aside.

(ii) Suit No.291 of 1976 is remitted back to the learned single Judge. It is also agreed between the parties that both the parties do not want to amend their pleadings. They also do not want to lead any additional evidence. According to them, on the basis of the same pleadings and the same evidence, the suit should be heard again and decided in accordance with law.

(iii) Suit No.291 of 1976 is, therefore, remitted

back for fresh hearing and decision in accordance with law and what we have observed above.

(iv) Appeal disposed of.

(v) As the suit is filed long back and in peculiar circumstances the order of remand is required to be made, we request the learned single Judge taking up the suit for final hearing to decide the suit as expeditiously as possible.

(vi) Interim orders, which are presently operating in the appeal, shall continue to operate during the pendency of the suit.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)